

## **MINUTES OF APRIL 18, 2016**

The regular meeting of the Sussex County Board of Adjustment was held on Monday, April 18, 2016, at 7:00 p.m. in the County Council Chambers, County Administrative Office Building, 2 The Circle, Georgetown, Delaware.

The meeting was called to order at 7:00 p.m. with Chairman Dale Callaway presiding. The Board members present were: Mr. Dale Callaway, Mr. John Mills, Mr. Jeff Hudson, Mr. Brent Workman, and Mr. Norman Rickard, with Mr. James Sharp – Assistant County Attorney, and staff members Ms. Janelle Cornwell – Planning and Zoning Manager, and Mrs. Jennifer Norwood – Recording Secretary.

The Pledge of Allegiance was led by Mr. Callaway.

Motion by Mr. Mills, seconded by Mr. Rickard, and carried unanimously to approve the Revised Agenda as circulated. Motion carried 5 – 0.

Mr. Sharp read a statement explaining how the Board of Adjustment meeting is conducted and the procedures for hearing the cases.

### **OLD BUSINESS**

**Case No. 11745 – Pot-Nets Homes, LLC** – seeks a variance from the separation requirement between units in a mobile home park (Section 115-172G(7) of the Sussex County Zoning Code). The property is located on the southwest corner of River Road and Pinebrine Road in Pot Nets Bayside. 911 Address: 34434 River Road, Millsboro. Zoning District: AR-1. Tax Map No.: 2-34-30.00-2.00-55123

Mr. Cornwell presented the case, which has been tabled since April 4, 2016.

The Board discussed the case.

Mr. Rickard stated that he would move that the Board recommend approval of Variance Application No. 11745 for the requested variance based on the record made at the public hearing and for the following reasons:

1. The shape of the lot makes the Property unique;
2. The variance is necessary to enable reasonable use of the Property;
3. The exceptional practical difficulty was not created by the Applicant;
4. The variance will not alter the essential character of the neighborhood; and
5. The variance sought is the minimum variance necessary to afford relief.

Motion by Mr. Rickard, seconded by Mr. Workman, and carried that the variance be **granted for the reasons stated**. Motion carried 4 – 1.

The vote by roll call: Mr. Mills – nay, Mr. Hudson – yea, Mr. Rickard – yea, Mr. Workman – yea, and Mr. Callaway – yea.

**Case No. 11750 – Ron Abremski & Diane Abremski** – seek a variance from the rear yard setback requirement (Sections 115-25C and 115-183C of the Sussex County Zoning Code). The property is located on the east side of Herring View Drive approximately 0.6 miles east of Angola Beach Road. 911 Address: 33613 Herring View Drive, Lewes. Zoning District: AR-1. Tax Map No.: 2-34-18.00-746.00.

Ms. Cornwell presented the case, which has been tabled since April 4, 2016.

Mr. Rickard stated that he feels that approval of this variance request could set a precedent in the community.

Mr. Mills stated that the Board must make case-by-case decisions; that more evidence is needed to prove misrepresentation by the builder; and that the small lot makes the Property unique.

Mr. Rickard stated that he believes the difficulty was created by the Applicants.

Motion by Mr. Rickard to deny the variance failed due to lack of a second.

Motion by Mr. Mills, seconded by Mr. Hudson, and carried unanimously that the case be **tabled until May 2, 2016**. Motion carried 5 – 0.

The vote by roll call: Mr. Rickard – yea, Mr. Workman – yea, Mr. Hudson – yea, Mr. Mills – yea, and Mr. Callaway – yea.

### **PUBLIC HEARINGS**

**Case No. 11751 – Dale Larrimore and Patricia Larrimore** – seek a variance from the rear yard setback requirement (Section 115-34B of the Sussex County Zoning Code). The property is located on the northwest corner of Signature Boulevard and Wild Rose Circle in Americana Bayside. 911 Address: 36450 Wild Rose Circle, Selbyville. Zoning District: MR-RPC. Tax Map No.: 5-33-19.00-1038.00.

Ms. Cornwell presented the case and stated that the Office of Planning and Zoning had not received any correspondence in support of or in opposition to the Application.

Dale Larrimore and Patricia Larrimore were sworn in to testify about the Application. James Fuqua, Esquire, presented the case to the Board on behalf of the Applicants and submitted exhibits for the Board to review.

Mr. Fuqua stated that the Applicants are requesting a variance of 4.2 feet from the ten (10) feet rear yard setback requirement on the north side for a proposed screened-in porch addition; that the Property is located in the Americana Bayside development; that the Applicants own a dwelling on the Property which includes a small screened porch; that the Applicants propose extending the

screened porch; that the proposed addition to the screened-in porch and deck are in line with the existing deck; that the deck is 5.8 feet from the rear yard setback line; that open, unenclosed decks are permitted to extend five (5) feet into the setback area; that the rear yard borders a strip of common area that is fifteen (15) feet wide and serves as a buffer from the storm water management pond; that there is no dwelling or residential lot adjacent to the rear yard of the Property; that the existing dwelling and screen porch are twenty-six (26) feet from the storm water management pond; that the proposed porch will be approximately twenty-one (21) feet from the storm water management pond; that the proposed addition will allow reasonable use of the Property; that the Applicants need minimum exposure to the sun due to health issues; that the open deck is rarely used due to those health issues; that the homeowners association supports the Application and approved the porch extension; that the neighbors have no objection to the Application; that the design of the porch addition will match the existing dwelling; that the Property is unique because it is adjacent to a strip of common area which makes the rear yard of the Property appear larger than it actually is; that the variance is necessary for the reasonable use of the Property; that the exceptional practical difficulty was not created by the Applicants; that the variance and the addition will not alter the essential character of the neighborhood; that the use will not be detrimental to the public welfare; and that the variance sought is the minimum variance necessary to afford relief.

Dale Larrimore, under oath, affirmed the statements made by Mr. Fuqua. Mr. Larrimore testified that their health conditions were diagnosed after the Applicants purchased the Property; that a small addition to the deck was needed for architectural purposes and will be consistent with the character of the neighborhood; that he consulted with an architect in designing the porch; and that there was no other possible location for the proposed addition.

Mr. Fuqua stated that the existing porch is 12 feet wide by 16 feet deep and, after the additions are constructed, the porch will measure approximately 14 feet wide by 21 feet deep; and that there is no flooding in the rear yard.

The Board found that no parties appeared in support of or in opposition to the Application.

Mr. Rickard stated that he would move that the Board recommend approval of Variance Application No. 11751 for the requested variance based on the record made at the public hearing and for the following reasons:

1. The common area at the rear of the Property makes this property unique;
2. The exceptional practical difficulty was not created by the Applicants due to their health conditions;
3. The variance will not alter the essential character of the neighborhood;
4. The homeowners association supports the Application; and
5. The variance sought is the minimum variance necessary to afford relief.

Motion by Mr. Rickard, seconded by Mr. Workman, and carried unanimously that the variance be **granted for the reasons stated**. Motion carried 5 – 0.

The vote by roll call: Mr. Mills – yea, Mr. Hudson – yea, Mr. Rickard – yea, Mr. Workman – yea, and Mr. Callaway – yea.

**Case No. 11752 – Glen Fern, LLC** – seeks a variance from the side yard setback requirement (Section 115-34B & 82B of the Sussex County Zoning Code). The property is located on the south side of Carolina Street approximately 150 feet east of Coastal Highway (Route 1). 911 Address: 38448 Carolina Street, Rehoboth Beach. Zoning District: MR & C-1. Tax Map No.: 3-34-20.09-185.00.

Ms. Cornwell presented the case and stated that the Office of Planning and Zoning had not received any correspondence in support of or in opposition to the Application.

Dr. Ted Wilson was sworn in to testify about the Application. Dennis Schrader, Esquire, presented the case to the Board on behalf of the Applicant and submitted exhibits for the Board to review.

Mr. Schrader stated that the Applicant is requesting a variance of five (5) feet from the ten (10) feet side yard setback requirement for a proposed second floor addition; that the Property has been in the Applicant's family since 1950; that the Property is also known as Lot 24 of Killen's Addition in Rehoboth Beach; that the lot is 72 feet wide in the front of the Property and 38 feet wide in the rear; that lots are no longer allowed to be designed in this fashion; that the Property was created prior to the development of the adjacent Rehoboth by the Sea community; that, over the years, numerous renovations have been made to the dwelling; and that all renovations were permitted.

Dr. Wilson testified that the original dwelling consisted of only one (1) bedroom, and over the years additions have been made; that Rehoboth by the Sea was created in the 1960s; that the lot was believed to have been a rectangular shaped lot measuring 90 feet by 100 feet; that a survey completed in 1994 showed the lot line to be angled creating a trapezoid shaped lot; that a fence along the incorrect, rectangular lot line was moved to the correct, trapezoid lot line at that time; that there is no through traffic on Carolina Street; that the dwelling will be renovated; that the renovations and addition to the existing dwelling will be within the same footprint as the existing dwelling; that the statements made by Mr. Schrader are true and correct; that the Property is unique due to its shape and unique history; that the Property cannot otherwise be developed in strict conformity with the Sussex County Zoning Code; that the exceptional practical difficulty was not created by the Applicant; that the variance will not alter the essential character of the neighborhood; that the use does not impair the development or uses of the neighboring and adjacent properties; that the variance will not have a negative impact to the Property values; that the variance requested is the minimum variance to afford relief; that the variance is the least modification of the regulation at issue; that there has been no discussion with neighbors in Rehoboth By The Sea; that the neighboring land is leased; and that there have been no complaints about the existing structure.

The Board found that no parties appeared in support of or in opposition to the Application.

Mr. Mills stated that he would move that the Board recommend approval of Variance Application No. 11752 for the requested variance based on the record made at the public hearing and for the following reasons:

1. The physical conditions and shape of the lot make the Property unique;
2. The variance is necessary to enable reasonable use of the Property;
3. The Property cannot otherwise be developed in strict conformity with the Sussex County Zoning Code;
4. The exceptional practical difficulty was not created by the Applicant;
5. The variance will not alter the essential character of the neighborhood; and
6. The variance sought is the minimum variance necessary to afford relief.

Motion by Mr. Mills, seconded by Mr. Rickard, and carried unanimously that the variance be **granted for the reasons stated**. Motion carried 5 – 0.

The vote by roll call: Mr. Hudson – yea, Mr. Rickard – yea, Mr. Workman – yea, Mr. Mills – yea, and Mr. Callaway – yea.

**Case No. 11753 – Saheb, LLC** – seeks a variance from the front yard setback requirement (Section 115-82B of the Sussex County Zoning Code). The property is located on the west side of Concord Road approximately 10 feet south of Concord Pond Road. 911 Address: 10680 Concord Road, Seaford. Zoning District: C-1. Tax Map No.: 1-32-2.00-324.00.

Ms. Cornwell presented the case and stated that the Office of Planning and Zoning had not received any correspondence in support of or in opposition to the Application.

Synnjay Patel and Chris Walter were sworn in to testify about the Application. Michael McGroerty, Esquire, presented the case on behalf of the Applicant and submitted pictures for the Board to review.

Mr. McGroerty stated that the Applicant is requesting a variance of twenty (20) feet from the sixty (60) feet front yard setback requirement for a proposed addition; that the Property is only 149.25 feet deep; that the existing building is non-conforming and pre-dated the establishment of the setback requirements, which creates a unique situation; that the building cannot be operated reasonably and safely in today's market because of its size; that the proposed addition is needed for additional storage for the existing liquor store; that the Applicant cannot build to the east of the building due to a lack of space; that the Applicant cannot build to the rear because the area is needed for storm water management; that a house on a nearby property (Lot 326) is located very close to the road; that the proposed front yard setback is consistent with the neighborhood; that numerous properties are closer to the front property lines; that the variance will not alter the essential character of the neighborhood; that the variance will not adversely affect the development or use of neighboring and adjacent properties; that the addition will not extend any further than the existing building into the front yard; and that the addition will likely improve the values of properties in the area.

Mr. Walter testified that he is the builder on the project; that the proposed development is the only reasonable way to develop the Property; that the location of the septic system and the parking requirements limit the buildable area; that the storm water management area will be located on the southwest and southeast sides of the Property; that the septic is in the rear of the

Property; that the existing building is approximately 1,524 square feet in size and the addition to the building will be approximately 3,385 square feet in size; that there will be 26 parking spaces on the Property; that it is impossible to build the addition within the building envelope; that the size of the addition is needed for the reasonable use of the Property; that the existing entrance was installed two (2) years ago; that the Applicant will have to work with the Delaware Department of Transportation ("DelDOT") regarding the entrance permits for the Property; and that the Applicant must submit a site plan for review to the Planning & Zoning Office and other agencies for review.

Mr. Patel, under oath, affirmed the statements made by Mr. McGroerty. Mr. Patel testified that he has not created any of the difficulty associated with the Property; and that he did not place the building on the Property.

Mr. McGroerty stated that the proposed size of the addition is needed to accommodate the cooler storage needed for the business; that there will be adequate parking available; that the display area for auto sales will be removed; that a smaller building will not allow for enough space for the coolers; that the building was designed to minimize the need for a variance; that the septic system and storm water management system limit the area where the building can be placed; that an adjacent neighbor on the east side has requested the Applicant to put up a fence, and the Applicant has agreed to install the fence; that there is no road behind the building; and that a previous owner dedicated 5 feet of the front yard to DelDOT.

The Board found that no parties appeared in support of or in opposition to the Application.

Motion by Mr. Rickard, seconded by Mr. Workman, and carried unanimously that the case be **tabled until May 2, 2016**. Motion carried 5 – 0.

The vote by roll call: Mr. Mills – yea, Mr. Hudson – yea, Mr. Rickard – yea, Mr. Workman – yea, and Mr. Callaway – yea.

**Case No. 11754 – James McGarvey** – seeks variances from the separation requirement between units in a mobile home park, side yard setback, front yard setback, and maximum lot coverage requirements (Sections 115-172G(4), (7), and (13) of the Sussex County Zoning Code). The property is located at the end of Bay Winds Lane in Rehoboth Shores. 911 Address: 33314 Bay Winds Lane, Millsboro. Zoning District: AR-1. Tax Map No.: 2-34-24.00-35.00-44414.

Ms. Cornwell presented the case and read one (1) letter of opposition into the record and stated that the Office of Planning and Zoning had not received any correspondence in support of the Application.

Todd East was sworn in and testified requesting a variance of 5.2 feet from the twenty (20) feet separation requirement between units in a mobile home park, a variance of one (1) foot from the five (5) feet side yard setback requirement for an existing deck on the south side, a variance of 0.9 feet from the five (5) feet front yard setback requirement for an existing shed, and a variance of 6.55% from the 35% maximum allowable lot coverage in a mobile home park; that the Applicant only recently purchased the Property; that he is the contractor who constructed the deck in the rear yard; that he lived in the neighborhood and the decks and sheds have been in the neighborhood for

years; that the existing structures were already encroaching; that, when he obtained the building permit for the deck, he was told it would meet the requirements; that the steps and walkway on the north side of the house were there at the time he constructed the deck on the rear of the dwelling; that the new portion of that deck measures only the width of the existing dwelling; that the shed and deck on the front of the lot existed prior to his construction of the rear deck; that the building permit department advised him that they made a mistake in issuing the permit; that the encroachments existed prior to his construction of the deck; that the cul-de-sac is paved; that the Property floods easily as it is a low-lying area; and that it would be a hardship to remove or move the deck into compliance.

Ms. Cornwell advised the Board that, even if the new deck was removed, the lot coverage requirement would still be exceeded.

The Board found that no parties appeared in support of or in opposition to the Application.

Mr. Rickard stated that he would move that the Board recommend approval of Variance Application No. 11754 for the requested variances based on the record made at the public hearing and for the following reasons:

1. The existing encroachments and mistake on the building permit create a unique situation;
2. The variances are necessary to enable reasonable use of the property;
3. The exceptional practical difficulty was not created by the Applicant;
4. The variances will not alter the essential character of the neighborhood; and
5. The variances sought are the minimum variances necessary to afford relief.

Motion by Mr. Rickard, seconded by Mr. Workman, and carried unanimously that the variances be **granted for the reasons stated**. Motion carried 5 – 0.

The vote by roll call: Mr. Mills – yea, Mr. Hudson – yea, Mr. Rickard – yea, Mr. Workman – yea, and Mr. Callaway – yea.

The Board took a ten (10) minutes recess.

**Case No. 11755 – Alessandro Marcozzi and Maria Marcozzi** – seek a variance from the separation requirement between townhomes (Section 115-34B and 115-188D(4) of the Sussex County Zoning Code). The property is located on the northeast side of Putter Lane in the Forest Landing Development. 911 Address: 36519 Putter Lane, Frankford. Zoning District: MR-RPC. Tax Map No.: 1-34-16.00-40.00.

Ms. Cornwell presented the case and read two (2) letters of support into the record and stated that the Office of Planning and Zoning had not received any correspondence in opposition to the Application.

Maria Marcozzi was sworn in and testified requesting a variance of six (6) feet from the forty (40) feet separation requirement between townhomes for a proposed screened-in porch; that

the Property is angled in a way that prevents the porch from meeting the separation requirement; that, when she agreed to purchase the Property, Ryan Homes told her she could build a screened-in porch; that the screened-in porch is necessary to enjoy the outdoors; that the storm water management pond is at the rear of her property; that there are mosquitoes due to the pond; that she was unaware any addition would not meet the separation requirement; that there are numerous screen porches in the development; that the porch will enhance the community; that the proposed porch will measure 10.3 feet by 14.3 feet and a smaller porch would not be worth the expense; that the porch will be the same as her neighbor's porch; that Ryan Homes is reimbursing her the application fee for their mistake; that the neighbors are in support of the Application; that the angle of the house is unique; that the Homeowners Association approved the screened-in porch addition; and that the screened-in porch will be within the common elements portion of her property.

Ms. Cornwell advised the Board that Unit 299 is considered to be to the rear of the Property and the separation distance needs to be 40 feet; and that units on the side yard need only have a separation distance of 10 feet.

The Board found that one (1) party appeared in support of the Application.

The Board found that no parties appeared in opposition to the Application.

Mr. Rickard stated that he would move that the Board recommend approval of Variance Application No. 11755 for the requested variance based on the record made at the public hearing and for the following reasons:

1. The Property is unique as it has an angled shape;
2. The Property cannot otherwise be developed in strict conformity with the Sussex County Zoning Code;
3. The exceptional practical difficulty was not created by the Applicants;
4. The variance will not alter the essential character of the neighborhood; and
5. The variance sought is the minimum variance necessary to afford relief.

Motion by Mr. Rickard, seconded by Mr. Workman, and carried unanimously that the variance be **granted for the reasons stated**. Motion carried 5 – 0.

The vote by roll call: Mr. Mills – yea, Mr. Hudson – yea, Mr. Rickard – yea, Mr. Workman – yea, and Mr. Callaway – yea.

**Case No. 11756 – Sheila Jackson** – seeks a variance from the front yard setback (Section 115-42B of the Sussex County Zoning Code). The property is located on the south side of Sandy Cove Drive approximately 50 feet east of Martin Road. 911 Address: 38197 Sandy Cove Road, Ocean View. Zoning District: GR. Tax Map No.: 1-34-9.00-410.00.

Ms. Cornwell presented the case and stated that the Office of Planning and Zoning had not received any correspondence in support of or in opposition to the Application.



Gil Fleming, of Oakwood Homes, was sworn in and testified requesting a variance of 16.2 feet from the forty (40) feet front yard setback requirement for a proposed manufactured home; that the Applicant suffers from illnesses and could not attend the meeting; that an existing 1973 manufactured home on the Property had to be removed due to severe damage from a tree which rendered the home unusable; that, due the Applicant's medical issues and tight budget, Oakwood Homes offered the proposed unit at a price she can afford; that the proposed dwelling cannot fit within the building envelope on the lot; that this 16 feet by 72 feet manufactured home is the only one Oakwood Homes can offer at an affordable price for the Applicant; that there are other dwellings in the area which encroach into the front yard setback area; that the dwelling will comply with the side yard and rear yard setback requirements; that the Property is unique because it was developed at a time when mobile homes were smaller; that the building envelope for the Property is small; that he has no other singlewide mobile home which he could sell to the Applicant; that the difficulty was not created by the Applicant; that the variance requested will not alter the character of the neighborhood; that the dwelling will be an improvement over the prior dwelling on the lot; that the variance requested is the minimum variance to afford relief; that the shed has been removed from the Property; that the variance is the least modification of the regulation at issue; that the prior mobile home measured 12 feet by 60 feet and no homes of that size are sold now; and that, in order to comply with the setback requirements, the Applicant would need a specially built manufactured home – which would be cost prohibitive.

Ms. Cornwell stated that a portion of the front yard is in the designated right-of-way.

The Board found that no parties appeared in support of or in opposition to the Application.

Mr. Mills stated that he would move that the Board recommend approval of Variance Application No. 11756 for the requested variance based on the record made at the public hearing and for the following reasons:

1. The existing right-of-way creates a uniqueness to the Property;
2. The variance is necessary to enable reasonable use of the Property;
3. The exceptional practical difficulty was not created by the Applicant;
4. The variance will not alter the essential character of the neighborhood;
5. The use will not be detrimental to the public welfare; and
6. The variance sought is the minimum variance necessary to afford relief.

Motion by Mr. Mills, seconded by Mr. Hudson, and carried unanimously that the variance be **granted for the reasons stated**. Motion carried 5 – 0.

The vote by roll call: Mr. Rickard – yea, Mr. Workman – yea, Mr. Hudson – yea, Mr. Mills – yea, and Mr. Callaway – yea.

**Case No. 11757 – Pat Lewis & Karen Lewis** – seek a variance from the front yard setback requirement (Section 115-25C of the Sussex County Zoning Code). The property is located on the east side of Riverwalk Drive in the Beaver Creek subdivision. 911 Address: 18841 River Walk Drive, Milton. Zoning District: AR-1. Tax Map No.: 2-35-30.00-517.00.

Ms. Cornwell presented the case and read one (1) letter of support to the Application into the record and stated that the Office of Planning and Zoning had not received any correspondence in opposition to the Application.

Pam McDonald was sworn in and testified requesting a variance of seven (7) feet from the ten (10) feet rear yard setback requirement for a proposed three season room; that she is a contractor with Del-Coast Design & Build hired by the Applicants to construct a three season room; that the proposed three season room will measure 16 feet by 20 feet; that the Property is unique as it is irregularly shaped and is shallow in depth; that the existing dwelling takes up most of the building envelope thereby leaving little space for an addition; that Bryton Homes developed the Property; that all model homes offered to the Applicants for this lot just fit within the building envelope; that the Property cannot otherwise be developed in strict conformity with the Sussex County Zoning Code; that there is no alternative location for a three season room; that the variance is the minimum variance to afford relief; that the exceptional practical difficulty was not created by the Applicants; that Bryton Homes told the Applicants an addition could be built at a later date; that the Applicants opted out of the three season room during construction of the dwelling due to budget concerns; that the Applicants seek protection from the sun, pollen, and dust; that the variance will not alter the essential character of the neighborhood; that the structure is similar to other three season rooms in the development; that there is a 20 feet utility easement and fields on property to the rear of the lot; that the structure will only be partially visible from Lot 21 – which is currently vacant; that the lot to the northeast of the Property is an easement which cannot be developed; that the use will not be detrimental to the public welfare; that a variance was granted in 2015 for a similar situation elsewhere in the neighborhood; that she does not believe that there are other lots in the neighborhood where a three season room could not be built without the need for a variance; that the variance is the minimum to afford relief; that a smaller room is not feasible; that Mrs. Lewis has an aversion to the sun and there is little shade on the Property; that the variance will enable reasonable use of the Property; and that 45-50 other homes in the neighborhood have a screen porch or three season room.

The Board found that no parties appeared in support of or in opposition to the Application.

Motion by Mr. Rickard, seconded by Mr. Workman, and carried unanimously that the case be **tabled until May 2, 2016**. Motion carried 5 – 0.

The vote by roll call: Mr. Mills – yea, Mr. Hudson – yea, Mr. Rickard – yea, Mr. Workman – yea, and Mr. Callaway – yea.

**Case No. 11758 – Raymond B. Newell** – seeks a variance from the width of the walkway around a pool requirement (Section 115-185D of the Sussex County Zoning Code). The property is located on the west side of Winding Brook Court approximately 1,075 feet west of Reynolds Road. 911 Address: 14743 Winding Brook Court, Milton. Zoning District: AR-1. Tax Map No.: 2-35-7.00-346.00.

Ms. Cornwell presented the case and stated that the Office of Planning and Zoning had not received any correspondence in support of or in opposition to the Application.

Raymond Newell and Douglas Arcos, of Clean Cut Inter Locking Pavers, were sworn in and testified requesting a variance of one (1) foot from the three (3) feet width requirement for a walkway around a pool.

Mr. Newell testified that the mistake was discovered after the pool was installed; that he and the pool installer discussed the option of having less than a three (3) foot walkway around the entire pool; that there is one (1) foot of pavers and one (1) foot of stone between the pool and fence; that he was unaware of a need for the variance; that only a portion of the walkway and the opposite side of the pool has the minimum three (3) foot walkway; that there are no issues to access the pool from that side for maintenance; that the fence and underground irrigation would have to be relocated to bring the walkway into compliance; and that the neighbors have no objection to the Application.

Mr. Arcos testified that he is the contractor retained by the Applicant; that he showed his plans to the permitting office; and that he made a mistake and overlooked the three (3) foot walkway requirement noted on the permit application.

The Board found that no parties appeared in support of or in opposition to the Application.

Mr. Rickard stated that he would move that the Board recommend approval of Variance Application No. 11758 for the requested variance based on the record made at the public hearing and for the following reasons:

1. The builder made an error on the rear side of the pool only making the situation unique;
2. The Property cannot be otherwise developed in strict conformity with the Sussex County Zoning Code without a great hardship and expense to the Applicant;
3. The exceptional practical difficulty was not created by the Applicant;
4. The variance will not alter the essential character of the neighborhood; and
5. The variance sought is the minimum variance necessary to afford relief.

Motion by Mr. Rickard, seconded by Mr. Hudson, and carried unanimously that the variance be **granted for the reasons stated**. Motion carried 5 – 0.

The vote by roll call: Mr. Mills – yea, Mr. Workman – yea, Mr. Rickard – yea, Mr. Hudson – yea, and Mr. Callaway – yea.

### **ADDITIONAL BUSINESS**

**Case No. 11533 – Cellco Partnership d/b/a Verizon Wireless** – request for a special use exception to place a telecommunication tower (Section 115-23C(17) 115-194.2 A to J of the Sussex County Zoning Code). The property is located on the northeast side of Watson Road approximately 2,200 feet northeast of Ellis Grove Road. 911 Address: 51777 Watson Road, Laurel. Tax Map No.: 4-32-6.00-33.02.

### **Time Extension Request**

Ms. Cornwell read a letter from the Applicant requesting a one (1) year time extension.

Motion by Mr. Rickard, seconded by Mr. Workman, and carried unanimously that the request for a time extension be **granted for a period of one (1) year**. Motion carried 5 – 0.

The vote by roll call: Mr. Mills – yea, Mr. Hudson – yea, Mr. Rickard – yea, Mr. Workman – yea, and Mr. Callaway – yea.

**Case No. 11552 – Tucker Farm, LLC** – request for a special use exception to place a telecommunications tower (Section 115-23C(17) 115-194.2 A to J of the Sussex County Zoning Code). The property is located on the south side of Hummingbird Road approximately 620 feet west of Carpenter Road. 911 Address: 20780 Hummingbird Road, Ellendale. Zoning District: AR-1. Tax Map No.: 2-30-28.00-8.00.

### **Time Extension Request**

Ms. Cornwell read a letter from the Applicant requesting a one (1) year time extension.

Motion by Mr. Rickard, seconded by Mr. Mills, and carried unanimously that the request for a time extension be **granted for a period of one (1) year**. Motion carried 5 – 0.

The vote by roll call: Mr. Hudson – yea, Mr. Rickard – yea, Mr. Workman – yea, Mr. Mills – yea, and Mr. Callaway – yea.

**Case No. 11518 – Two Farms, Inc.** – request for a special use exception to place an off-premise sign and a variance from the front yard, side yard, the distance from a dwelling and the maximum height requirement and the maximum square footage for an off-premise sign (Section 115-82B, 115-80C & 115-159.5B(2) & (3) of the Sussex County Zoning Code). The property is located at southwest corner of Coastal Highway (Route 1) and John J. Williams Highway (Route 24). 911 Address: None Available. Zoning District: C-1. Tax Map No.: 3-34-12.00-165.00, 166.00, 167.00, 168.00 & 170.00.

### **Time Extension Request**

Ms. Cornwell read a letter from the Applicant requesting a one (1) year time extension.

Motion by Mr. Rickard, seconded by Mr. Hudson, and carried unanimously that the request for a time extension be **granted for a period of one (1) year**. Motion carried 5 – 0.

The vote by roll call: Mr. Mills – yea, Mr. Hudson – yea, Mr. Rickard – yea, Mr. Workman – yea, and Mr. Callaway – yea.

**Meeting Adjourned 9:55 p.m.**